

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

LAPONZO DALLAS,
Petitioner,

v.

Case No. 04-C-1177

BYRAN BARTOW,
Respondent.

ORDER DENYING CERTIFICATE OF APPEALABILITY

On June 16, 2006, habeas petitioner LaPonzo Dallas filed a notice of appeal of my dismissal of his case. Before a habeas petitioner may take an appeal to the Seventh Circuit, I must consider whether to grant him a certificate of appealability. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

The certificate of appealability may issue only if the applicant makes a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). The standard for making a “substantial showing” is whether “reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further.” *Slack*, 529 U.S. at 484 (internal quotation marks omitted) (citing *Barefoot v. Estelle*, 463 U.S. 880, 893 & n.4 (1983)). If the court issues a certificate of appealability it must indicate on which specific issue or issues the petitioner has satisfied the “substantial showing” requirement. 28 U.S.C. § 2253(c)(3).

In a Rule 4 order dated December 16, 2004, I dismissed the petition as untimely by several years. I also noted that it was a successive petition and that dismissal was warranted on that basis as well. For the reasons given in that order, I conclude that reasonable jurists would not be able to

debate whether the petitioner has a valid claim. Accordingly, the certificate of appealability is denied.

For the same reasons, I also certify that the appeal is not taken in good faith. Although petitioner has not requested to proceed in forma pauperis, the fact that the appeal is not in good faith will preclude him from proceeding without payment of the filing fee.

THEREFORE, IT IS ORDERED that petitioner's request for a certificate of appealability is denied.

I further certify that the appeal has **not** been taken in good faith.

A copy of this order will be sent by my clerk to the Attorney General for the State of Wisconsin, c/o Gregory M. Weber, Assistant Attorney General, P.O. Box 7857, Madison, WI 53707; and to Gino J. Agnello, Circuit Clerk for the Seventh Circuit, United States Courthouse, 219 South Dearborn Street, Chicago, IL 60604.

Dated this 21st day of June, 2006.

s/ William C. Griesbach

WILLIAM C. GRIESBACH
United States District Judge